

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Nikola Corporation,

10 Petitioner,

11 v.

12 Trevor R Milton,

13 Respondent.
14

No. CV-23-02635-PHX-DJH

ORDER

15 Before the Court is Nikola Corporation’s (“Nikola”) Motion to Amend or Clarify
16 Judgment of an Arbitration Award. (Doc. 37). Because the original judgment did not list
17 the specific amounts awarded or the terms of the Final Award, the Court will grant
18 Nikola’s Motion to Amend the Judgment under Federal Rule of Civil Procedure 60(a).
19 Federal Rule of Civil Procedure 60(a) allows the Court to correct clerical mistakes,
20 oversights, and omissions contained in a judgment, order, or other part of the record.
21 Fed.R.Civ.P. 60(a). In his Response, Respondent, Trevor R. Milton (“Milton”), argues
22 that Nikola’s proposed amended judgment (Doc 44-2) fails to incorporate two separate
23 components: (1) the sum that is currently enforceable for \$96,816,193.00; and (2) the
24 Outstanding Portion of the SEC fine. (Doc. 42). The Outstanding Portion of the SEC
25 fine, according to Milton, is a contingency that “may never materialize, is misleading,
26 confusing, and prejudicial to Mr. Milton,” and because of this, should not be included in
27 the amended judgment award. (*Id.* at 2). This concern is well-addressed by Nikola in its
28 Reply. (Doc. 44). Nikola makes clear that in the Final Arbitration Award, Milton was

1 found liable for the Outstanding SEC Fine. (*Id.* at 2). The amount of that fine is an
2 amount that Nikola is entitled to collect from Milton after it satisfies the condition of
3 making additional payments to the SEC. (*Id.*). Nikola is correct that the Final Award no
4 longer is a matter of liability, it is a matter of enforcement and collection of the amount
5 that Milton owes Nikola. (*Id.*). Nikola has also attached a second proposed amended
6 judgment to its Reply. (Doc. 44-2). The proposed Amended Judgment states expressly
7 that Nikola cannot execute on the Outstanding Portion of the SEC fine until it makes
8 additional payments.

9 For the aforementioned reasons,

10 **IT IS HEREBY ORDERED** that Nikola's Motion (Doc. 37) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that the Judgment (Doc. 36) entered on
12 September 9, 2024, is hereby **amended** to state as follows:

13 **IT IS ORDERED** that Judgment shall be, and hereby is, entered in favor of
14 Petitioner Nikola and against Respondent Trevor R. Milton ("Milton") in the amount of
15 \$96,816,193.00.

16 **IT IS FURTHER ORDERED** that, as of the date of this Judgment, Nikola is
17 entitled to enforce and collect from Milton \$96,816,193.00 which is currently due and
18 payable from Milton to Nikola.

19 **IT IS FURTHER ORDERED** that Nikola is entitled to post-judgment interest on
20 the \$96,816,193.00 currently due and payable amount of this Judgment at an interest rate
21 of 4.12% from September 9, 2024, until that portion of the judgment is paid in full at a
22 daily cost of \$10,925.10.

23 **IT IS FURTHER ORDERED** that, subject to the conditions set forth herein,
24 Judgment shall be, and hereby is, entered in favor of Nikola and against Milton, and
25 Nikola shall be entitled to enforce and collect from Milton up to an additional
26 \$84,390,000.00 (Outstanding Portion of the SEC Fine), and the same proportion of any
27 interest required by the "Order Instituting Cease-and-Desist Proceedings, Pursuant to
28 Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act


1 of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist
 2 Order” between Nikola and the Securities and Exchange Commission (“SEC”), dated
 3 December 21, 2021 (the “SEC Order”). If Nikola makes a payment to the SEC toward
 4 the Outstanding Portion of the SEC Fine, that figure will be due and payable by Milton to
 5 Nikola within ten (10) days after (i) Nikola makes the payment and (ii) Milton receives
 6 notice and proof of any such payment.

7 **IT IS FURTHER ORDERED** if Nikola makes a payment to the SEC toward the
 8 Outstanding Portion of the SEC Fine, then Nikola is entitled to prejudgment interest on
 9 that amount, calculated at an interest rate of 5.25% compounded quarterly from
 10 September 10, 2020, to August 4, 2023. The proportional amount of pre-judgment
 11 interest applicable to Nikola’s payment to the SEC is due and payable by Milton to
 12 Nikola within ten (10) days after (i) Nikola makes a payment to the SEC toward the
 13 Outstanding Portion of the SEC Fine, and (ii) Milton receives notice and proof of any
 14 such payment.

15 **IT IS FURTHER ORDERED** that Nikola is not entitled to prejudgment interest
 16 on (i) any unpaid portion of the SEC Fine or (ii) any unpaid interest on any unpaid
 17 portion of the SEC Fine.

18 **IT IS FURTHER ORDERED** if Nikola makes a payment to the SEC toward the
 19 Outstanding Portion of the SEC Fine, then Nikola is entitled to post-judgment interest on
 20 that amount from the date such amount becomes payable as set forth above, plus the
 21 proportional pre-judgment interest, at an interest rate calculated based on the weekly
 22 average 1-year constant maturity (nominal) Treasury yield, as published by the Federal
 23 Reserve System for the calendar week preceding the date such amounts become payable
 24 as set forth above.

25 Dated this 1st day of November, 2024.

26 
 27 Honorable Diane J. Humetewa
 28 United States District Judge